REMARKS

The Office Action mailed March 17, 2009 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Record of Interview

On April 20, 2008, a first interview was conducted by telephone between Examiner Haliyur and the undersigned.

On May 13, 2008, a second interview was conducted by telephone between Examiner Haliyur and the undersigned.

The Applicant thanks the Examiner for granting these interviews. The details of the interviews are set forth in the Interview Summary documents made of record.

Claim Status and Amendment of the Claims

Claims 1-70 are currently pending.

No claims stand allowed.

Claims 1, 9, 16, 20, 34, 42, 57-62, 67-68 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes is found in the specification, figures, and claims as originally filed, for example, paragraphs 2, 10, and 16-18.

The Applicant gratefully acknowledges indication of allowability of claims 2, 10, 17, 21, 35, 43, 50, and 54 subject to their re-writing in independent form including all of the limitations of the base claim and any intervening claims. Claims 61, 62, 63, 64, 67, 68, 69, and 70 include the limitations of claims 2, 10, 17, 21, 35, 43, 50, and 54, respectively, rewritten in independent form and including all of the limitations of the base claim and any intervening claims.

With this Amendment it is respectfully submitted the claims satisfy the statutory requirements.

The First 35 U.S.C. § 103 Rejection

Claims 1, 3-9, 11-15, 34, 36-42, 44-48, 57-58, 61-62, and 67-68 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kadambi et al.,[1] in view of Erimli et al.,[2] and further in view of Liu et al.[3] [4] This rejection is respectfully traversed.

According to the M.P.E.P.,

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.[5]

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.[6]

Claims 1, 34, and 57

Claim 1 as presently amended recites:

> A method performed in a network device, the method comprising:
> determining, in the network device, a present need to pause traffic flow to the network device, and if a present need to pause traffic flow to the network device is determined, placing in a type/length field in a frame, a value signifying the frame indicates that traffic flow to the network device should be paused, the traffic flow comprising one or more digital data packets, each

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[1] U.S. Patent No. 7,212,534 to Kadambi et al.
[2] U.S. Patent No. 6,405,258 to Erimli et al.
[3] U.S. Patent No. 7,292,572 to Liu et al.
[4] Office Action at ¶ 5.
[5] M.P.E.P. § 2143.
[6] *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

of the one or more digital data packets including a priority level, the priority level indicating a relative level of importance of timely delivery of the digital data packet to the network device;

placing in an opcode field in the frame, a value signifying that traffic flow to the network device should be paused or not paused according to its priority level;

creating a priority mask field in the frame; and

placing in the priority mask field, a value signifying which priority levels should be paused.

With this Amendment, Claim 1 has been amended to more closely correspond to allowed non-means-plus-function apparatus claim 24. Similar amendments have been made to means-plus-function apparatus claim 34 and *In re Beauregard* claim 57. Claim 24 being allowed, Claims 1, 34, and 57 must also be allowable for at least the same reasons as for allowed Claim 24.

Claims 9, 42, and 58

Claim 9 as presently amended recites:

A method performed in a network device, the method comprising:

determining, in the network device, a present need to pause traffic flow to the network device, and if a present need to pause traffic flow to the network device is determined, placing in a type/length field in a frame, a value signifying that traffic flow to the network device should be paused or not paused according to its priority level, the traffic flow comprising one or more digital data packets, each of the one or more digital data packets including a priority level, the priority level indicating a relative level of importance of timely delivery of the digital data packet to the network device;

creating a priority mask field in the frame; and

placing in the priority mask field, a value signifying which priority levels should be paused.

With this Amendment, Claim 9 has been amended to more closely correspond to allowed non-means-plus-function apparatus claim 28. Similar amendments have been made to means-plus-function apparatus claim 42 and *In re Beauregard* claim 58. Claim 28 being allowed, Claims 9, 42, and 58 must also be allowable for at least the same reasons as for allowed Claim 28.

<u>Claims 61-62 and 67-68</u>

The Applicant gratefully acknowledges indication of allowability of claims 2, 10, 35, and 43 subject to their re-writing in independent form including all of the limitations of the base claim and any intervening claims. Claims 61, 62, 67, and 68 include the limitations of claims 2, 10, 35, and 43, respectively, rewritten in independent form and including all of the limitations of the base claim and any intervening claims.

<u>Dependent Claims 3-8, 11-15, 36-41, and 44-48</u>

Claims 3-8 depend from Claim 1. Claims 11-15 depend from Claim 9. Claims 36-41 depend from Claim 34. Claims 44-48 depend from Claim 42. Claims 1, 9, 34, and 42 being allowable, Claims 3-8, 11-15, 36-41, and 44-48 must also be allowable for at least the same reasons as for Claims 1, 9, 34, and 42.

<u>The Second 35 U.S.C. § 103 Rejection</u>

Claims 16, 18-20, 22-23, 49, 51-53, 55-56, and 59-60 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over <u>Erimli et al.</u> in view of <u>Liu et al.</u>, and further in view of <u>Kadambi et al.</u>[7] This rejection is respectfully traversed.

<u>Claims 16, 49, and 59</u>

Claim 16 as presently amended recites:

A method performed in a network device, the method comprising:
examining, in the network device, a value in a type/length field in a frame to
    determine if it signifies that the frame indicates that traffic flow to the
    network device should be paused, the traffic flow comprising one or more
    digital data packets, each of the one or more digital data packets including a

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[7] Office Action at ¶ 6.

priority level, the priority level indicating a relative level of importance of timely delivery of the digital data packet to the network device;

examining a value in an opcode field in the frame to determine if it signifies that traffic flow to the network device should be paused or not paused according to its priority level, if the value in the type/length field signified that the frame indicates that traffic flow to the network device should be paused; and

pausing traffic flow to the network device with priority levels corresponding to levels signified by a value in a priority mask field in the frame if the value in the opcode field signified that traffic flow to the network device should be paused or not paused according to its priority level and if the value in the type/length field signified that the frame indicates that traffic flow to the network device should be paused.

With this Amendment, Claim 16 has been amended to more closely correspond to allowed non-means-plus-function apparatus claim 32. Similar amendments have been made to *In re Beauregard* claim 59. Claim 32 being allowed, Claims 16, 49, and 59 must also be allowable for at least the same reasons as for allowed Claim 32.

Claims 20, 53, and 60

Claim 20 as presently amended recites:

A method performed in a network device, the method comprising:

examining, in the network device, a value in a type/length field in a frame to determine if it signifies that the frame indicates that traffic flow to the network device should be paused and if it signifies that traffic flow to the network device should be paused or not paused according to its priority level, the traffic flow comprising one or more digital data packets, each of the one or more digital data packets including a priority level, the priority level indicating a relative level of importance of timely delivery of the digital data packet to the network device; and

pausing traffic flow to the network device with priority levels corresponding to levels signified by a value in a priority mask field in the frame if the value in the type/length field signified that traffic flow to a network device should be paused and that traffic flow to the network device should be paused or not paused according to its priority level.

With this Amendment, Claim 20 has been amended to more closely correspond to allowed non-means-plus-function apparatus claim 33. Similar amendments have been made to

In re Beauregard claim 60. Claim 33 being allowed, Claims 20, 53, and 60 must also be allowable for at least the same reasons as for allowed Claim 33.

Dependent Claims 18-19, 22-23, 51-52, and 55-56

Claims 18-19 depend from Claim 16. Claims 22-23 depend from Claim 20. Claims 51-52 depend from Claims 49. Claims 55-56 depend from Claim 53. Claims 16, 20, 49, and 53 being allowable, Claims 18-19, 22-23, 51-52, and 55-56 must also be allowable for at least the same reasons as for Claims 16, 20, 49, and 53.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

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Dated: May 14, 2009

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